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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,894	03/24/2004	Gregory Duane Ellis	73591.000004	7403
21967 7590 05/21/2009 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109			EXAMINER FOSSELMAN, JOEL W	
			ART UNIT 2622	PAPER NUMBER
			MAIL DATE 05/21/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/808,894

Applicant(s)

ELLIS, GREGORY DUANE

Examiner

JOEL FOSSELMAN

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 60-105 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 60-105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

In view of the appeal brief filed on 02/09/09, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-9, 11, 12, 64, 65, 67-72, 74, 75, 80, 81, 83-87, 92, 93, 95-99 and 105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liwerant et al. (US 2002/0056123 A1, hereinafter Liwerant).

Re claim 1, Liwerant discloses, an Internet-based recording method for recording audio and video material over an Internet connection established between a user front end and a host back end, the method comprising: recording the audio and video

material on the host back end (figure 1A, pars [0045] and [0048], "...sender A using a computer 10 sends a video segment in file form and any associated audio material (or a plurality of still images with their associated audio files)", "The streaming server D 40 transmits the video in streaming video format to the machine-readable storage 50, which, at the direction of the streaming server D 40, can store the video in streaming video format and also can store an identification tag for the video on itself or on the databases 60, 61"); and providing access to the recorded audio and video material (figure 1A, par [0048], "The identification tag, or another identifier of the video, such as the thumbnail and/or the URL is communicated back to the sender A's computer 10 by way of one or more of the streaming server D 40, the processing server C 30, and the mail server B 21. The operator of sender A's computer 10 can then use the identifier to request that the video be streamed to sender A's computer 10 for viewing, and/or the operator of sender A's computer 10 can provide the identifier to another viewer"). The embodiment, from Liwerant, fails to explicitly disclose delivering user interface code to automatically establish a connection between the user front end and the host back end to initiate streaming of media.

In another embodiment, illustrated by figure 6, Liwerant discloses the VideoShare Producer 20 software contacts the host computer 60, which in one embodiment is the VideoShare Upload/Database Server at the VideoShare hosting facility. This portion of the automated process is denoted by the box 645 labeled "Transfer ("upload") temporarily stored SMF file and JPEG thumbnail identifier to host computer 60." The VideoShare Producer 20 software notifies the host computer 60 that the user wishes to

place his or her video into a repository maintained by the host computer 60, which in one embodiment can be the VideoShare VideoCenter, which is a repository of all recorded and uploaded videos to date. This upload is performed automatically using a direct TCP/IP socket connection over a specific connection port of the user's computer known as port 80. The VideoShare Producer 20 software uses a standard communications protocol to perform this transfer to the host computer 60 (par [0129, figure 6A, user interface code is inherently used to notify the host computer that data is to be streamed to the server or host computer).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an Internet-based recording method, as claimed, to stream media (i.e. video/audio) from a user front end and store said media on a host back end; meanwhile delivering user interface code to automatically establish a connection between the user front end and the host back end to initiate streaming of media. Since Liwerant discloses, in an embodiment, an Internet-based recording method for streaming and recording media from a user front end to a host back end, respectively; automatically delivering code to establish a connection for streaming, from another embodiment (par [0129]), would create a more user friendly recording experience by reducing the amount of steps that the user must initiate in order to record media from a camera.

Re claim 2, Liwerant discloses the limitations of claim 1 including enabling recorded audio and video material on the host back end to be reviewed at the user front

end (par [0048], "The operator of sender A's computer 10 can then use the identifier to request that the video be streamed to sender A's computer 10 for viewing").

Re claim 4, Liwerant discloses the limitations of claim 1 including in response to input from the user front end, linking the recorded audio and video material at the host back end to a pointer that is placed at an additional location, wherein activating the pointer provides access to the recorded audio and video material at the host back end (pars [0048] and [0072]).

Re claim 5, Liwerant discloses the limitations of claim 4 including wherein the pointer is a hyperlink (par [0072]).

Re claim 6, Liwerant discloses the limitations of claim 1 including producing hypertext markup language code associated with the recorded audio and video material to facilitate accessing the recorded audio and video material (par [0073]).

Re claim 7, Liwerant discloses the limitations of claim 1 including enabling access to the recorded audio and video material at the host back end from at least one additional location by copying the hypertext markup language code produced at the host back end and pasting the hypertext markup language code to the at least one additional location (par [0158]).

Re claim 8, Liwerant discloses the limitations of claim 7 including wherein the at least one additional location is an auction site (par [0065]).

Re claim 9, Liwerant discloses the limitations of claim 1 including enabling recorded audio and video material on the host back end to be edited from the user front end (see figure 9, par [0162], a user may inherently alter the speed of playback , i.e.

pressing the fast-forward or reverse button in Windows Media Player, altering the speed of playback is a form of editing and is performed after the video is stored on the host side).

Claim 11 is rejected as applied to claim 1 (par [0012]).

Claim 12 is rejected as applied to claim 1 (pars [0052]-[0053]).

Claims 64,65,67-72,74,75 are considered apparatus claims which correspond to method claims 1,2,4-9,11,12, respectively. Please see the discussion above for those claims. The system for performing the method steps as claimed would have been anticipated by the video sharing system of Liwerant.

Claims 80,81,83-87, recite essentially the same scope as method claims 1,2,4,5,7-9, respectively. However, Instead of delivering user interface code, the code is now received, which is an essential step in the aforementioned method claims. Claims 80,81,83-87 are rejected for the reasons stated for claims 1,2,4,5,7-9.

Claims 92,93,95-99 are considered apparatus claims which correspond to method claims 1,2,4-6,8,9, respectively. Please see the discussion above for those claims. The system for performing the method steps as claimed would have been anticipated by the video sharing system of Liwerant.

Claim 105 is rejected as applied to the above claims. Additionally, Liwerant discloses that the computer system 10 can include a computer which can be a hand held device such as a PDA (par [0077]).

Claims 3,10,60-63,66,73,76-79,82,88-91,94,100-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liwerant in view of Official Notice.

Claim 3 pertains to enabling recorded audio and video material on the host back end to be re-recorded from the user front end. Although, Liwerant fails to explicitly disclose that the recorded material on the back end is re-recordable from the user front end, Official Notice is taken to note that replacing a file with another file, typically newer, is notoriously well known and used in the related art. It would have been obvious to incorporate the recording method of Liwerant for streaming and recording media to a host back end; meanwhile overwriting or re-recording, certain media files in order to conserve storage space.

Re claim 10, Liwerant fails to explicitly disclose that the audio data stored at the host back end may be re-dubbed in response to a user input from the front end. Official Notice is taken to note that re-dubbing audio signals based on a user input is notoriously well known and used in the related art. It would have been obvious to incorporate the recording method of Liwerant for streaming and recording media to a host back end; meanwhile re-dubbing audio signals for the benefit of synchronizing the audio with a corresponding video signal.

Claim 60 is rejected as applied to claim 1 (figures 7 and 8, reference characters 700 and 800, pars [0151]-[0152]). The progress dialog screen indicating that the files are being processed is a display which is construed by examiner to be a user interface. However, Liwerant fails to explicitly disclose that the user interface is generated in the Internet browser. Official Notice is taken to note that generating a user interface in an Internet browser based on the user interface code is notoriously well known and used in the related art. It would have been obvious to incorporate the recording method of

Liwerant for streaming and recording media to a host back end; meanwhile generating said user interface in an Internet browser for the benefit of providing a standard means for navigation within the browser or for providing a standard means for viewing status of a pending file transfer.

Claim 61 is rejected as applied to claim 60 (figure 7, pars [0151],[0100]). The phrase "video material" is broadly interpreted to mean any material relating to the video, which in the immediate case is the status of the process of video, displayed within the dialog screen.

Claims 62 and 63 recite essentially the same scope as the aforementioned claims and are rejected for the reasons stated above.

Claims 76-79 recite essentially the same scope as claims 60-63 and are rejected for the reasons stated above.

Claims 66,73 are considered apparatus claims which correspond to method claims 3,10, respectively. Please see the discussion above for those claims. The system for performing the method steps as claimed would have been implied and expected by the video sharing system of Liwerant.

Claims 82,88-91, recite essentially the same scope as method claims 3,60-63, respectively. However, Instead of delivering user interface code, the code is now received, which is an essential step in the aforementioned method claims since merely generating the code would be fruitless without delivering said code to establish a connection. Claims 82,88-91 are rejected for the reasons stated for claims 3,60-63.

Claims 94,100-103 are considered apparatus claims which correspond to method claims 3,60,63, respectively. Please see the discussion above for those claims. The system for performing the method steps as claimed would have been implied and expected by the video sharing system of Liwerant.

Claim 104 is rejected as applied to the above claims. Although Liwerant fails to explicitly disclose using a Wi-Fi connection, Official Notice is taken to note that a Wi-Fi connection to access the Internet is notoriously well known and used in the related art. It would have been obvious to incorporate the recording method of Liwerant for streaming and recording media to a host back end; meanwhile using Wi-Fi to establish an internet connection would have been obvious to utilize for the benefit of providing a wireless and less restrictive means for connecting to the Internet, in order to easily access and upload video data.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOEL FOSSELMAN whose telephone number is (571)270-3728. The examiner can normally be reached on 9:00 AM - 6:00 PM M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joel Fosselman/
Examiner, Art Unit 2622

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